

## ARTICLE 14

### **ASSIGNMENT AND TRANSFER**

#### **Section A. Definitions.**

1. **Original Vacancy.** An original vacancy shall be defined as a position which the Employer seeks to fill. A position from which an employee has been laid off or a temporarily vacant position (ninety [90] days or less) is not a vacancy.
2. **Subsequent Vacancies.** Subsequent vacancies are those arising as the result of the filling of an original vacancy.
3. **Remaining Vacancies.** Vacancies which no qualified applicant is seeking.
4. **Transfer.** Transfer shall be defined as the filling of a vacancy or change in assignment at the employee's initiative or request.
5. **Seniority.** Seniority shall be as defined in Article 12, Section A.2, except that probationary employees, and employees in unsatisfactory status, shall not be eligible to exercise any seniority transfer rights under this Article.

#### **Section B. Right of Assignment.**

Except as provided in this Article, the Employer shall have the right and responsibility to assign employees within an Agency or work location. In filling a vacancy the Employer shall continue to have the right to assign a qualified employee subject only to the provisions of this Article.

#### **Section C. Filling of Vacancies.**

##### **1. General.**

Vacancies in classifications in this Unit at work locations or Agencies in this Unit shall be filled only in accordance with the provisions of this Article. For a listing of work locations see Appendix A. For the duration of this Agreement, the Resident Care Aide series shall be regarded as three (3) classifications consisting of 6's, 7's, and E8's.

Employees applying for a transfer within their current classification and work location or Agency shall be given consideration in filling a vacancy in accordance with the following:

- a. The Employer reserves the right to appoint a qualified employee to a vacancy. In evaluating qualifications the Employer will consider:

- (1) Whether the employee's experience and performance indicate overall ability to perform the work required in a satisfactory manner;
- (2) Availability without undue delay excluding authorized sick leave for less than two (2) weeks and approved annual leave; and
- (3)
  - (a) Manual Communication skill (for Department of Education only);
  - (b) Treatment team composition requiring a minority group individual for treatment methodology (for Department of Human Services only);
  - (c) Department of Civil Service approved selective certification which may include selective certification by sex or manual communication skill.

The exceptions listed in (a) through (c) above shall only be made where there is a valid occupational requirement and no alternative exists for preferring the less senior employee. The Appointing Authority shall give the Local Union concurrent written notice when it requests approval from the Department of Civil Service for selective certification. Under no circumstances shall the exception listed in (3)(c) above form the basis for transfer out of line seniority until after the Local Union has been provided with a written copy of Civil Service approval for such selective certification.

- b. Should the Employer raise a question of physical fitness of an employee to perform required work, the employee will not be held to a higher standard of fitness than that which is currently necessary to secure employment in the particular classification.

The designation of assignment locations, reassignment within an assignment location and the Letter of Understanding regarding Article 14, Section C. Assignment Locations shall be appropriate subjects for secondary negotiations in the Department of Human Services.

The designation of assignment locations shall be an appropriate subject for secondary negotiations in the Departments of Corrections and Military and Veterans Affairs. In the Departments of Community Health, Education, Labor and Economic Growth, Natural Resources and State Police assignment locations shall be as provided in Appendix E of the Primary Agreement. Current assignment locations shall remain in effect unless altered by such secondary negotiations except as indicated below.

In the event that the Appointing Authority needs to make a change in an existing assignment location or to create new assignment locations, such change or creation shall be discussed in Agency Labor-Management

meetings. If agreement between the Agency and the Local Union cannot be reached at such meetings, the proposed change or creation shall be discussed in Department Labor-Management meetings. If agreement cannot be reached at such meeting, the Appointing Authority may implement the change or new assignment location. The Union may grieve such change or creation by notifying the Department in writing of its intention to grieve within thirty (30) calendar days of the implementation. Such grievances may be scheduled directly for arbitration without the necessity for a conference or Step Three response.

When a new assignment location is created, employees shall be given the opportunity to add such assignment location to their list of preferred assignment locations.

## **2. Original Vacancies.**

Original vacancies shall be posted at such time as the Employer has reached a decision to fill them. Such vacancies shall be posted in a conspicuous place in each assignment location. Each posting shall contain the assignment location including shift, classification and level, current schedule of days off, and selective certification, if any. Each posting shall also indicate if the posted position has been identified as test-designated in accordance with Article 23. The date on which such vacancy is first posted shall also be indicated. Original vacancies will be posted for a period of five (5) calendar days, except that vacancies which are posted during the week in which Thanksgiving, Christmas, and New Years occurs shall be posted for seven (7) calendar days.

Employees who are interested in transferring to the assignment location in which the posted vacancy exists shall indicate their interest by submitting written bids to the Appointing Authority or designee. The senior qualified employee bidding for the position shall be awarded the position by priority preference within fourteen (14) calendar days after the closing of the posting period. Employees who have bid for a position in accordance with the above procedure may not withdraw their bids after the close of the posting period.

The Appointing Authority shall furnish the Local Union President or designee with a copy of each job posting at the same time the job is posted. The Appointing Authority shall further furnish the Local Union President or designee with a copy of the list of employees bidding and an indication of which employee received the job.

In the event that there is more than one vacancy at any one time, the Appointing Authority may simultaneously post all available vacancies. Employees may bid on any or all vacancies and prioritize their preferences.

In the event that there is more than one vacancy in any one assignment location, the Employer shall post all of these in one posting.

An employee who gets a job in a different assignment location as the result of bidding successfully for such job shall not be entitled to another appointment as the result of bidding or from any vacancy transfer list during a six (6) month period from the effective date of the appointment.

### **3. Subsequent Vacancies.**

Subsequent vacancies shall be filled by transfer of a qualified employee who has applied for the vacancy by properly designating the assignment location (which includes shift) of the vacancy on the vacancy transfer list provided for below.

Vacancy Transfer List: The Employer will establish vacancy transfer lists from which subsequent vacancies will be filled by a qualified employee. Seniority of employees on these lists shall be based upon the Seniority Lists prepared at the end of the first pay period in December and at the end of the first pay period in June. Employees may designate their preferences, add or delete preferences for any number of assignment locations at any time. Such designations, additions or deletions must be in writing, signed and dated by the employee. Written designations received by the Appointing Authority or designee by 4:00 p.m. on the last Friday of a pay period shall be added to or deleted from lists and the resultant lists shall be used to select employees for all subsequent vacancies beginning on the first day of the next pay period.

An employee who is transferred to a position from any vacancy transfer list on which his/her name appears is obligated to accept the position.

Procedures to implement the above vacancy transfer list and its operation including priority preferences shall be agreed upon in Agency Labor-Management meetings. The Local Union and Agency shall work out a method of purging the vacancy transfer list. In addition, the Agency and Local Union shall develop a method of keeping the vacancy transfer list current. Agreements reached at such Agency Labor-Management meetings shall be put in writing and signed by the parties. All agreements reached under the prior Agreement shall remain in effect unless or until changed by mutual local written Agreement.

In utilizing the vacancy transfer list to fill the vacancy, the Employer shall select the senior qualified employee who has designated a preference for the assignment location in which the vacancy is to be filled. An employee who is appointed from the vacancy transfer list shall not be entitled to another appointment as the result of bidding or from any vacancy transfer list during a

six (6) month period from the effective date of the initial appointment from the vacancy transfer list.

In notifying the applicant(s) on the vacancy transfer list, the Employer shall furnish the employee the classification, shift, assignment location, selective certification requirements if any, and scheduled days off of the vacancy.

An employee departing on vacation may furnish the Employer, prior to departure, a written indication of the priority order of one or more of the employee's designated assignment locations on the vacancy transfer list which he/she will accept upon return from vacation. If such a vacancy arises during the period of the scheduled vacation, the vacancy will be held open for the employee.

#### **4. Remaining Vacancies.**

In the event that no qualified applicants bid for a job, and there are no qualified applicants on the vacancy transfer list for the assignment location in which a vacancy occurs, the Appointing Authority shall have the option of filling such vacancies by other methods. The Appointing Authority may return an employee from a leave of absence pursuant to Article 17, Section F., or reinstate an employee pursuant to an arbitration decision, or may involuntarily reassign an employee in accordance with the provision of this Article. However, when filling a full time remaining vacancy by means other than those referenced above in this Section, the Appointing Authority shall recall a laid-off employee from the appropriate recall list prior to filling the position with a Permanent-Intermittent employee currently working in the work location. If there are no names on any of the recall lists, the Appointing Authority shall have the option of filling the vacancy by any other methods which are consistent with other provisions of this Agreement. Such methods may include (but not necessarily in this order): new hiring; reinstatement; rehire; interclassification, interagency, or interdepartmental transfer; placement of state employee trainees; volunteers (not necessarily by seniority); promotion; and demotion. The subject of intradepartmental transfers shall be a proper subject of secondary negotiations in the Department of Human Services and the Department of Corrections.

The Employer may make involuntary reassignments to remaining vacancies in accordance with Section D. below. Involuntary reassignments not in accordance with Section D. below shall only be by inverse seniority from the assignment location of the Employer's choice.

Except as provided in Section D. below, any position from which an employee is involuntarily reassigned shall not be filled for a period of six (6) months following the effective date of the involuntary reassignment, unless such

position has first been offered to the involuntarily reassigned employee, and such employee has declined the offer.

#### **Section D. Exchange Reassignment.**

In the situations listed below the Employer shall have the right to reassign an employee within his/her classification and work location.

1. Where an employee has been disciplined and the circumstances of the disciplinary action indicate that the employee should be reassigned (Oral and Written counseling shall not be considered disciplinary actions).
2. Where written, recorded, and investigated complaints from residents, or staff indicate that performance or conduct is not satisfactory (in any grievance hearing over application of this Section, the Employer will only be required to show that the complaints received and investigated justified the action taken). The Employer's actions under this Subsection shall not be unreasonable, arbitrary or capricious. When the Employer utilizes this Subsection the Agency shall notify the Local Union.

The timeliness issue shall be applied in accordance with Article 8, Section D. for temporary employee exchange reassignment.

3. When an employee requests a transfer and the Employer and the Local Union agrees that the transfer would be in the mutual interest of both parties. The denial of an exchange reassignment shall not be grievable.
4. When an employee is not performing successfully in a new assignment which the employee has obtained by application of bidding or of the vacancy transfer list or otherwise, as verified by an unsatisfactory service rating.

In the event that a remaining vacancy exists, the Employer shall assign such employee to that vacancy. In the event that there is no remaining vacancy, the Employer shall reassign such employee and make in conjunction therewith a direct exchange reassignment.

Whenever the Employer makes a direct exchange reassignment pursuant to Subsections 1 through 4 above, the Employer will first seek a volunteer for the direct exchange from the assignment location to which the direct exchange reassignment is to be made. In the event more than one employee volunteers, the most senior qualified volunteer shall receive the direct exchange reassignment. If there is no qualified volunteer at the assignment location to which the employee is to be reassigned, the least senior employee in the particular classification at such assignment location shall be selected for the direct exchange reassignment, in which case the least senior employee so reassigned shall enjoy all rights and protections under Article 14, Section H. below. At the option of the Employer, a probationary

employee may be utilized for direct exchange reassignment and consideration for such use, while not mandatory, is encouraged.

When two employees request exchange reassignments within the same classification at the same work location or at a different work location the Employer may grant such request with Local Union agreement. The denial of an exchange reassignment shall not be grievable.

#### **Section E. Temporary Reassignment.**

During the period in which the selection process provided in Section C. above is being administered, or if an employee is on a leave of absence or on sick leave for ninety (90) calendar days or less, the Employer may temporarily fill a vacancy to fulfill operational needs.

For temporary assignments of more than ninety (90) calendar days, the Employer shall utilize the Agency temporary recall list as provided in Article 13, Layoff and Recall, if one exists.

In making temporary assignments of ninety (90) calendar days or less, the Employer may utilize a relief pool if one has been established. In the absence of a relief pool, the Employer shall go to the assignment location providing the temporary employee and seek volunteers. The Employer shall select the most senior qualified volunteer. In the event that there are no volunteers, the Employer shall select the least senior qualified employee in that assignment location to fill the temporary assignment.

#### **Section F. Relief Assignments.**

Relief assignments may be made on a day-to-day basis by the Employer in order to insure and establish adequate staffing in an assignment or work location. A relief assignment may be utilized by the Employer as a regular assignment. If a relief pool has been established, relief assignments shall be made from such pool. In the event that there is no relief pool or in the event that there are no employees available in an existing relief pool, the Employer may make relief assignments as indicated in this Section. A relief pool shall be considered an assignment location. If the Employer wishes to establish a relief pool, this shall be dealt with as the establishment of any new assignment location. When such relief employees are not available and an assignment location is required to provide relief to another location, the Employer shall first seek volunteers. In the event more than one employee volunteers, the most senior qualified volunteer shall receive the relief assignment. If there are no volunteers, the least senior qualified employee within the same classification from the assignment location providing the relief will normally be assigned to such relief assignment. An employee involuntarily performing a relief assignment shall not be replaced in his/her regular assignment except in extraordinary circumstances.

The manner of providing relief assignments shall be discussed at an agency Labor-Management Meeting within 30 days after the effective date of this agreement. If an agreement is reached, it shall be reduced to writing, signed by the parties, and appended to the secondary agreement. If no agreement is reached, the subject of relief assignment at that agency shall be subject to secondary negotiations.

### **Section G. Reassignment of Staff.**

The following procedure for reassignment of staff shall be utilized if layoffs result in an imbalance of staff or in the event that the Appointing Authority elects to close (either permanently or temporarily due to renovation or emergency) a building, cottage, wing, ward or dorm or both.

For purposes of this Section, the following definitions will apply:

1. "Displaced Employee": An active employee who must move from his/her assignment location because of a staffing imbalance resulting from layoff or because of a closure or both.
2. "Vacancy": Any position which the Employer seeks to fill. Original vacancies which were posted prior to the notice requirements indicated below shall not be considered vacancies for this purpose.

The following procedure shall be followed in the order indicated:

1. All employees in the assignment location from which employees will be displaced shall be provided written notice at least ten (10) calendar days prior to the date of the move. This written notice shall indicate available assignment locations. Employees shall only be offered positions which are on the same shift on which they are working at the time of notice. Within four (4) calendar days of receipt of the notice, employee(s) must indicate in writing their rank order of preference for some of the available assignment locations.
2. The Appointing Authority shall grant such requests in seniority preference order to qualified employees.
3. For employees who are not senior enough to receive one of their preferences and for whom movement across shift lines would be required, the following procedure will be used:
  - a. These displaced employees will be ranked in seniority order by shift.
  - b. An equivalent number of least senior employees by shift (on the same shift) will be identified.



- c. The displaced employees will then be permitted to "bump" the least senior employees on their shift. Such employees must designate their preference regarding which position they wish to bump within four calendar days after being notified that they may bump on their shift. If they do not indicate a preference, the most senior will go to the most senior, etc. If the displaced employee is also one of the least senior on the shift, such employee cannot "bump".
- d. Such bumped least senior employees will then be moved into the remaining vacant positions at the Employer's option.

Any reassignment, bumping or transfer in accordance with this Section shall not be considered a schedule change for the purpose of requiring the payment of premium pay.

At the time of notice to the affected employee(s), the Employer shall announce the closing as either temporary or permanent. If it is temporary, employees who are moved shall be returned to their former assignment locations when it is reopened.

When the Employer intends to phase down or partially close down an area, the employees within the assignment location(s) will be notified regarding the anticipated date of final closing once such date is known. If the date of final closure changes, employees in the assignment location will be notified of such change.

Any position from which an employee is involuntarily reassigned pursuant to this Section shall not be filled for a period of six months following the effective date of the reassignment unless such position has first been offered to the involuntarily reassigned employee and such employee has declined the offer.

In the event that there are more positions to be filled than there are displaced employees, the Employer shall select which vacancies need to be filled first and use only the number of positions equal to the number of displaced employees. Any positions remaining vacant after the application of this Section shall be considered original vacancies in accordance with this Article, Section C.

#### **Section H. Involuntary Assignment.**

Employees who have been transferred as the result of exercising their seniority rights in accordance with Section C. above shall not be involuntarily assigned for the six (6) month period following such seniority transfer. Such six (6) month protection shall not apply in the following cases:

1. If such employees are affected by a layoff, layoff reassignment or by a bump;
2. If the building, cottage, wing, ward or dorm in which such employees are working is closed either temporarily or permanently;

3. If they are among the least senior employees in an assignment location from which involuntary transfers are made.

If a permanent reassignment is on another shift, the Employer shall select the least senior qualified employee in the assignment location from which the reassignment will be made. This employee may elect either to be reassigned across shifts or to "bump" the least senior qualified employee from the affected shift who will then be reassigned across shifts.

If problem(s) arise in the application of this provision, an Agency Labor-Management meeting will be held without undue delay to attempt to resolve the problem(s). If problem(s) are not resolved at that meeting, a Department Labor-Management meeting will be held without undue delay to attempt to resolve the problem(s). Time limits for filing grievances will be tolled until after the above meetings have been held.

### **Section I. Return from Leave of Absence.**

The Employer may remove an employee from his/her assignment after the employee has been on an approved leave of absence for more than ninety (90) calendar days, excluding leaves of absence related to any injury or illness compensable under the State's Workers' Compensation statute.

An employee who has been removed from his/her assignment pursuant to the above paragraph and who returns to employment from a leave of absence of more than ninety (90) days may be temporarily assigned until a permanent assignment is made in accordance with this Article.

### **Section J. Information to the Union.**

The Employer will notify the Union of all subsequent vacancies to which this Article applies on a biweekly basis. Vacancies included in such notification shall be filled promptly in accordance with this Agreement. Upon request, the Union shall be granted access to such records as vacancy transfer lists and all other information that may be necessary to fulfill its obligation to provide fair representation to members of this Unit.

Whenever the Employer determines to make a direct exchange reassignment pursuant to Subsections 1 through 4, Section D., above, every possible effort will be made to notify the Union prior to the exchange and inform the Local Union representative of the intended direct exchange reassignment. The Union may suggest a different direct exchange reassignment, including a different assignment location for the direct exchange reassignment. When necessary, relief assignment should be utilized for a twenty-four (24) hour period to give the Union an opportunity, if it desires, to discuss the impending reassignment with the affected employee(s).

## **Section K. Return from Seasonal Layoff.**

In the Department of Education, the current practice shall continue. At the beginning of the school year, initial assignments shall be made in the following way:

1. All seasonal residential assignments (dormitories/cottages) will be deemed open;
2. A master listing of residential work assignments will be made up by the Michigan Schools for the Deaf and Blind.
3. Each seasonal employee will be given the opportunity to review the master listing showing the number of open assignments in each assignment location.
4. Assignments shall be filled in order of seniority, based on the preferences of the employees.
5. Upon an employee's return from seasonal layoff, work assignments away from the residence/cottage shall be made by the Department based upon qualifications (e.g., manual communication skills); experience; and employee preference.

Seniority shall be considered in making these work assignments and shall control among employees of substantially equal qualifications and experience. However, at the Michigan School for the Blind (Blind Department), the Employer may utilize RCA's in the education setting with those students they normally supervise in the residence/cottage.

Changes shall be taken up in secondary negotiations in the Department of Education.

## **Section L. Exercise of Rights Under this Article.**

Full time employees will be able to exercise rights granted under this Article with regard to other full time employees only; part time employees will be able to exercise their rights under this Article with regard to other part time employees only. Permanent-intermittent employees will be able to exercise their rights under this Article with regard to other permanent-intermittent employees only. Seasonal employees will be able to exercise their rights under this Article with regard to other seasonal employees only.

However, permanent-intermittent or part time employees with status may place their name on the vacancy transfer list in accordance with established agency procedure for full time remaining vacancies. Such permanent-intermittent or part time employees whose names appear on this vacancy transfer list shall be offered the remaining vacancy in accordance with the language in Section C.3 above prior

to offering the remaining vacancy to a new hire only. The provisions of this paragraph shall apply in all Departments with the exception of the Department of Human Services where the existing secondary agreement on cross employment type transfers shall apply.

Employees in limited term appointments and temporary employees shall not have any rights under this Article. Employment preference rights for employees in limited term appointments are as provided in Article 13, Section A.

#### **Section M. Effect of Transfer on Overtime.**

Employees who exercise seniority transfer rights under this Article for positions shall not be entitled to overtime pay as a result of having their schedules changed with less than the notice required in Article 15, Section E. An employee who is selected for a position shall be provided at least four (4) calendar days notice if the transfer involves a change in shift or "R" days unless mutually agreed.

#### **Section N. Right to Interagency Transfer.**

At the time that an employee(s) receives their layoff notice at an Agency, an equivalent number of additional employees at the Agency may put their names on the Interagency Transfer List (Departmental recall list) in seniority order and shall therefore have the same transfer rights as provided in Article 13, Section H.

#### **Section O. Transfer Out of Classification.**

An employee may be transferred to another vacancy in a classification for which he/she qualifies at any work location or Agency within the Unit. To be eligible for such a transfer, an employee must have status in a classification at the same level, and must meet or exceed the requirements for the classification to which the transfer is to be made. Whenever an employee is transferred to a new classification, the employee shall be required to satisfactorily complete a new probationary period.

#### **Section P. Transfer Expenses.**

Employees transferring under the provisions of this Article shall not be eligible for payment of moving expenses by the Employer, except as may be mutually agreed otherwise. In the case of reassignment, the Employer may reimburse employees for moving expenses in accordance with Article 22, Section N.

If the employer conducts interviews related to this Article, at the employee's Agency or work location, an employee selected for interview shall be allowed necessary and reasonable time for such interview without loss of pay or benefits.

The provisions of this Article do not obligate the Employer to retrain, or to provide for retraining of, any employee in order to permit him/her to transfer under these provisions.

**Section Q. Permanent-Intermittent Employees.**

1. Permanent-intermittent employees shall not be used for the purpose of eroding permanent full-time employment.
2. Permanent-intermittent employees are entitled to all benefits in accordance with Article 16. Seniority is accrued in accordance with Article 12, based on hours worked.
3. Permanent-intermittent employees shall have their holiday pay calculated in accordance with current practice except where such an employee works full-time for all non-holiday hours during the pay period in which the holiday occurs, whereupon they will be entitled to full holiday credit.
4. The scheduling, furloughing, return from furlough, layoff and recall of permanent-intermittent employees shall continue in accordance with current departmental practices until negotiated otherwise in secondary negotiations. Any and all other issues arising out of the employment of permanent-intermittent employees shall be discussed in Labor-Management meetings.
5. Permanent-intermittent employees who have acquired status shall have transfer rights in accordance with Section L. above
6. The Employer agrees to provide a minimum call-in guarantee of two (2) hours for permanent-intermittent employees who are scheduled to work or called in to work in accordance with departmental practice and who after arriving at the work site, are advised that they are not needed, or work less than two (2) hours. The minimum call-in guarantee above two (2) hours shall be a subject of secondary negotiations.
7. Permanent-intermittent employees who work on assigned shift and who, after returning home, are called back to work, will be paid a minimum of three (3) hours at the regular rate of pay.
8. Permanent-intermittent and part time employees who have worked two thousand eighty (2,080) hours or more in a fiscal year shall have the option of becoming permanent full time employees by notification to the Personnel Director of the Agency. In the Department of Education only, employees who are in pay status two thousand eighty (2,080) hours or more in a fiscal year shall have such option. If an employee elects to accept permanent full-time employment, their current position will be converted to full-time and be posted

as an original vacancy. Such employee shall have bidding rights as specified in Article 14, Section C.

9. The Employer agrees to equalize offers of work to permanent-intermittent employees within the six month equalization period under Article 15, Section L.2.A.

#### **Section R. Limited Term Employees.**

When an employee has been in any limited term appointment(s) for 4,160 continuous service hours (excluding military service hours) in the same department, the employee shall have the option of becoming a full time permanent employee by written notification to the Human Resource Director of the Agency, unless the employee is working in a project which has an established ending date. An employee in a limited term appointment for less than 4,160 continuous service hours (excluding military service hours) may apply to become a full time permanent employee by written request to the Human Resource Director of the agency. AFSCME's Local President shall be advised of any employee who is working on a project with an established ending date. This provision shall not apply to employees in the Department of Corrections Central Office. If an employee elects to accept permanent full-time employment, their current position will be converted to full-time and be posted as an original vacancy. Such employee shall have bidding rights as specified in Article 14 Section C.